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PCT LEGAL ADMINISTRATION

In re Application of:
THRO, Pierre-Yves
U.S. Application No.: 10/583,461
PCT No.: PCT/FR2004/050738
International Filing Date: 20 December 2004
Priority Date: 19 December 2003
Attorney's Docket No.: GRY-144US
For: SURFACE-CLEANING METHOD
AND DEVICE USING A LASER
BEAM

DECISION
(37 CFR 1.497(d))

This decision is issued in response to the "Response To Notice To File Missing Requirements Under 35 U.S.C. 371 In The United States Designated/Elected Office (DO/EO/US)" filed 26 September 2008, treated in part herein as a request to add inventors under 37 CFR 1.497(d). Applicants have paid the required \$130 processing fee.

BACKGROUND

On 20 December 2004, applicant filed international application PCT/FR2004/050738. The application claimed a priority date of 19 December 2003, and it designated the United States. On 30 June 2005, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 19 June 2006. The international application identified a single applicant/inventor for the United States, Pierre-Yves THRO.

On 19 June 2006, applicant filed a Transmittal Letter requesting entry into the national stage in the United States accompanied by, among other materials, an English translation of the international application. However, the submission did not include payment of the required basic national fee. Accordingly, PCT/FR2004/050738 became abandoned with respect to the United States at midnight on 19 June 2006.

On 23 March 2007, the United States Designated/Elected Office (DO/EO/US) issued a "Notification Of Abandonment" (Form PCT/DO/EO/909) confirming that the application was abandoned for failure to file the basic national fee prior to the expiration of thirty months from the priority date.

On 02 April 2007, applicant filed a petition for revival of the application under 37 CFR 1.137(b).

On 12 September 2007, a decision was issued granting applicant's petition for revival under 37 CFR 1.137(b).

On 26 June 2008, the DO/EO/US issued a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497, the surcharge for filing the oath or declaration later than thirty months after the priority date, and the search and examination fees.

On 26 September 2008, applicant filed a response to the Notification Of Missing Requirements (with required extension fee). The response included payment of the required surcharge, search and examination fees. The response also included a declaration executed by the inventor of record as well as two additional persons, Michel NEU and Jean-Marc WEULERSSE. The declaration and accompanying materials are considered herein as a request under 37 CFR 1.497(d) to add Michel NEU and Jean-Marc WEULERSSE as additional inventors of record, so as to permit acceptance of the declaration filed 26 September 2008.

DISCUSSION

Section 1893.01(e) of the MPEP states the following regarding changes in the inventorship of an international application entering the national stage (emphasis added):

The inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any changes effected under PCT Rule 92*bis*. See 37 CFR 1.41(a)(4). Accordingly, **an oath or declaration that names an inventive entity different than that set forth in the international application will not be accepted for purposes of entering the U.S. national phase unless the requirements under 37 CFR 1.497(d) are satisfied.** These requirements include: (A) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (B) the processing fee set forth in 37 CFR 1.17(i); and (C) the written consent of the assignee if an assignment has been executed by any of the original named inventors (see 37 CFR 3.73(b)).

As noted above, applicant has filed a declaration that names an inventive entity different than that set forth in the international application (specifically, Michel NEU and Jean-Marc WEULERSSE have been added as additional inventors). Accordingly, applicant must satisfy the requirements of 37 CFR 1.497(d) before such declaration can be accepted.

Applicant has provided the required statements of non-deceptive intent from the persons to be added as inventors (Michel NEU and Jean-Marc WEULERSSE) as well as payment of the required processing fee. Requirements (A) and (B) are therefore satisfied. Applicant has not, however, submitted a statement executed by an authorized representative of the assignee consenting to the requested change in inventorship. Requirement (C) of a grantable request to correct inventorship under 37 CFR 1.497(d) is therefore not satisfied.

It is noted that the consent of the assignee must be submitted in compliance with 37 CFR 3.73(b). Accordingly, any statement of consent from the assignee subsequently submitted herein must be accompanied by an acceptable statement in compliance with 37 CFR 3.73(b) (see Form PTO/SB/96).

Based on the above, applicant has not satisfied all the requirements for a grantable request to correct inventorship under 37 CFR 1.497(d).

CONCLUSION

Applicant's request to correct inventorship under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

The inventorship of record remains that set forth in the international application, that is, Pierre-Yves THRO.

The declaration filed 26 June 2008, which includes Michel NEU and Jean-Marc WEULERSSE as additional inventors, is unacceptable on the present record for failure to properly identify the inventorship of record.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should be entitled "Renewed Request Under 37 CFR 1.497(d)" and must include the materials required to satisfy item (C) of a grantable request, as discussed above and in the MPEP, that is, a properly executed statement of consent to the requested change in inventorship from the assignee and an acceptable statement under 37 CFR 3.73(b).

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a)

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/RichardMRoss/

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